

REMARKS

Favorable reconsideration of this application, in view of the preceding amendments and following remarks, is respectfully requested.

Claims 1-25 are pending in this application. Claims 18, 22 and 23 are amended. Claim 26 is cancelled. Claims 1, 11, 13, 17 and 18 are independent claims.

Applicants acknowledge with appreciation the Examiner's indication that the drawings filed November 13, 2003 are accepted by the USPTO.

Claim Rejections under 35 U.S.C. § 112, Second Paragraph

Claims 1-21 and 26 stand rejected under 35 U.S.C. § 112, second paragraph, as indefinite. In particular, the Examiner alleges that essential elements are omitted from the claims. For example, regarding claim 1, the Examiner asserts the claim requires an essential element of a "device that sends a scheduled grant message." However, Applicants respectfully request that this rejection be withdrawn at least because claim 1 is directed to a method of controlling reverse link transmission by at least one mobile station. Accordingly, the method is performed by a mobile station and thus Applicants submit the device transmitting information to the mobile state is not essential to the claim. Further, Applicants submit that if the rejections to claims 1-21 and 26 are upheld, this would remove the Applicants ability to diversify the scope of claims by claiming, for example, (i) a system including a mobile station and a base station, (ii) just a mobile station or (iii) just a base station.

In light of the above, Applicants respectfully request that the rejection of claim 1-21 and 26, under 35 U.S.C. § 112, second paragraph, be withdrawn.

Claim Rejections under 35 U.S.C. § 101

Claims 18-21 stand rejected under 35 U.S.C. § 101 because the Examiner alleges that claim 18 is directed to non-statutory subject matter. Applicants respectfully traverse this rejection as detailed below.

Amended independent claim 18 recites “overwriting...; and receiving a transmission from the at least one mobile station based on the scheduled grant message.” As such, Applicants respectfully submit that the claimed reverse link control method does result in a practical application to provide a useful, concrete and tangible result. While claim 18 still does not recite a transmitting step, claim 18 recites receiving a transmission since claim 18 is drafted from the viewpoint of a base station.

In light of the above, Applicants respectfully request that the rejection of independent claim 18, as well as claims 19-21 depending therefrom, under 35 U.S.C. § 101 be withdrawn.

Rejections under 35 U.S.C. § 103

Claims 1-7, 11-14, 17, 18, 22, 23 and 26:

Claims 1-7, 11-14, 17, 18, 22, 23 and 26 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Padovani et al. (U.S. Patent No. 6,574,211, hereinafter Padovani) in view of Lal et al. (“Distributed Resource Allocation for DS-CDMA based Multi-media Wireless LANs”, hereinafter Lal). Applicants respectfully traverse this rejection for the reasons detailed below.

The Examiner asserts the combination of Padovani and Lal teach the various features recited in independent claim 1. In particular, the Examiner cites (i) 810, 814, 816 and 818 of FIG. 8 and column 30, lines 11-18 of Padovani and (ii) “section 3.2.4 Transmitter: Session Setup

Continued, pg 586, step 2 where the rate of transmission is r_{ij} in the CTS_{ji} message)" of Lal as teaching the features of claim 1.

Applicants respectfully submit that the above cited portions of both Padovani and Lal appear to merely describe a scheduled transmission mode in which a grant message designates a transmission format such as data rate, frame/packet duration, and transmission power as described in paragraph [0002] in the background of the invention section of the Applicants' specification. For example, Padovani merely indicates that a mobile station can transmit a high speed data transmission and Lal merely indicates a mobile station can transmit at a rate of r_{ij} . However, even if a base station in Padovani and/or Lal is considered to provide (i) an approval to transmit and considered to (ii) set a rate limit, which Applicants do not admit, neither Padovani nor Lal sets a rate limit for transmission scheduled according to a different protocol.

In light of the above, Applicants respectfully submit that neither Padovani nor Lal disclose, teach or suggest "sending a schedule grant message according to a first scheduling protocol, the schedule grant message providing the at least one mobile station with approval to transmit, the schedule grant message further establishing a rate limit for transmissions scheduled according to a second scheduling protocol," as recited in claim 1, or the somewhat similar features of independent claims 11, 13, 17 and 18.

Further, Applicants note that some of the dependent claims further specify the two different protocols. For example, dependent claim 2 recites "the first scheduling protocol is a scheduling mode protocol and the second scheduling protocol is a rate control mode protocol." Applicants respectfully request the Examiner, in light of the Applicants' assertion above that both Padovani and Lal describe a scheduled transmission mode and not a rate control mode, further explain how one or both references function as a rate control mode.

Still further, even if the Examiner does consider either Padovani or Lal to be a rate control mode, Applicants submit one skilled in the art would not be motivated to combine a scheduling mode protocol with a rate control mode protocol without using impermissible hindsight analysis taking into consideration the Applicants' disclosure.

Therefore, Applicants respectfully request the rejection of claims 1-7, 11-14, 17, 18, 22 and 23 under 35 U.S.C. § 103(a) be withdrawn.

Claims 8-10, 15, 16, 19-21 and 24:

Claims 8-10, 15, 16, 19-21 and 24 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Padovani in view of Lal and further in view of Bae et al. (U.S. Patent Publication No. 2003/0093364, hereinafter Bae). Applicants note that claims 8-10, 15, 16, 19-21 and 24 depend from one of the independent claims discussed above. Further, Applicants respectfully submit that Bae fails to cure the deficiencies of Padovani and Lal discussed above with respect to claim 1 and thus, claims 8-10, 15, 16, 19-21 and 24 are believed to be allowable over the cited references for at least the same reasons that independent claim 1 is allowable over Padovani and Lal.

Therefore, Applicants respectfully request that the rejection of claims 8-10, 15, 16, 19-21 and 24 under 35 U.S.C. § 103(a) be withdrawn.

Claim 25:

Claim 25 stands rejected under 35 U.S.C. § 103(a) as unpatentable over Padovani in view of Lal and further in view of Yoon et al. (U.S. Patent Publication No. 2004/0203397, hereinafter

Yoon). Applicants note that claim 25 depends from claim 22 reciting features somewhat similar to amended claim 1. Further, Applicants submit that Yoon fails to cure the deficiencies of Padovani and Lal as described above with respect to independent claim 1. Therefore, claim 25 is believed to be allowable over the combination of Padovani, Lal and Yoon for at least the same reasons that claim 22 is believed to be allowable over Padovani and Lal.

Therefore, Applicants respectfully request the rejection of claim 25 under 35 U.S.C. § 103(a) be withdrawn.

CONCLUSION

Accordingly, in view of the above amendments and remarks, reconsideration of the objections and rejections and allowance of each of the pending claims of the present application is earnestly solicited.

Pursuant to 37 C.F.R. §§ 1.17 and 1.136(a), Applicant(s) hereby petition(s) for a one (1) month extension of time for filing a reply to the outstanding Office Action and submit the required \$120 extension fee herewith.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Gary D. Yacura at the telephone number of the undersigned below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

HARNESS, DICKEY, & PIERCE, P.L.C.

By

Gary D. Yacura, Reg. No. 35,416

Scott A. Elchert, Reg. No. 55,149

P.O. Box 8910
Reston, Virginia 20195
(703) 668-8000

GDY/SAE/ame